Supreme Court, U.S.
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No. 03-183

In The

Supreme Court of the United States

JESSE WOODROW SHOTTS,

Petitioner,

v.

MICHAEL RASMUSSEN, alias Mr. Mike, et al.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

BRIEF IN OPPOSITION FOR RESPONDENT DR. CARLA THOMAS

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QUESTION PRESENTED

Whether this Court should consider a Petition for Writ of Certiorari challenging the Court of Appeals' dismissal of certain Respondents on immunity grounds when (1) Petitioner has not met the jurisdictional requirements pursuant to 28 U.S.C. §1254 and (2) all of the claims asserted against this Respondent were dismissed for failure to state a claim and not on immunity grounds.

PARTIES TO THE PROCEEDING

Petitioner is Jesse Woodrow Shotts, the plaintiff in the lawsuit filed in the United States District Court for the Northern District of Alabama. This Respondent is Dr. Carla Thomas, a licensed physician, and one of the defendants in this lawsuit. The other named Respondents/ Defendants are Michael Rasmussen, Yvonne Alexander, Ron Moses, Rodney Robinson, Cynthia McGough, Dr. Luis A. Berrios, Jennifer Merkle, Larry Spencer, Eric Dryden, Debra Rankin, Randy Stiles, Ms. Blankenship, Lieutenant W. Hutchings, C. Thompson, Dr. George Hill, Honorio Dela Cruz, Art Dizon, and Warden R. Wiley.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
OPINIONS BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	1
I. Course of the Proceedings	1
II. Statement of Facts	3
REASONS FOR DENYING THE WRIT	4
CONCLUSION	8

TABLE OF AUTHORITIES

Page

CASES

Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971) 6

Fields v. United States, 205 U.S. 292 (1907) 6

Hamilton-Brown Shoe Co. v. Wolf Bros. & Co., 240 U.S. 251 (1916) 5

Magnum Import Co. v. Coty, 262 U.S. 159 (1923) 5

Ohio ex rel. Seney v. Swift & Co., 260 U.S. 146 (1922) 5

United States v. Shotts, 145 F.3d 1289 (11th Cir. 1998) 2

CONSTITUTION AND STATUTES

18 U.S.C. § 1962 6

28 U.S.C. § 1254 ..... 1, 4

42 U.S.C. § 1983 6

42 U.S.C. § 1985 6

RULES

SUP. CT. R. 10 6

OPINIONS BELOW

The opinion of the District Court of the Northern District of Alabama is contained in the Appendix to the Petition for a Writ of Certiorari filed by Jesse Woodrow Shotts, Petitioner in this matter. The opinion of the Court of Appeals for the Eleventh Circuit is also contained in the Appendix to the Petition for a Writ of Certiorari.

STATEMENT OF JURISDICTION

Respondent disputes Petitioner's claim that this Court has jurisdiction pursuant to 28 U.S.C. § 1254, as explained in the Reasons for Denying Petition.

CONSTITUTIONAL PROVISIONS INVOLVED

Respondent disputes Petitioner's claim that this case involves U.S. Constitutional Amendments I, V, and VIII, as explained in the Reasons for Denying Petition.

STATEMENT OF THE CASE

Respondent Dr. Carla Thomas submits that the Petition for Writ of Certiorari ("Pet.") filed by Petitioner Jesse Woodrow Shotts is due to be denied.

I. Course of the Proceedings

On June 25, 1996, Petitioner, Jesse Woodrow Shotts ("Shotts"), was sentenced to a sixty-month custodial term following felony convictions for conspiracy to commit mail

fraud, mail fraud, witness tampering, and perjury. *See United States v. Shotts*, 145 F.3d 1289 (11th Cir. 1998). On appeal to the United States Court of Appeals for the Eleventh Circuit, the conspiracy, mail fraud, and perjury convictions were reversed. *Id.* The case was subsequently remanded for resentencing relating to Shotts's witness tampering conviction. *Shotts*, 145 F.3d at 1303 (11th Cir. 1998). Thereafter, on January 6, 2000, Shotts was re-sentenced to a custodial term of nineteen months.

On May 31, 2002, Shotts filed a Complaint in the United States District Court for the Northern District of Alabama. In his Complaint, Shotts alleges that twenty-one defendants violated various federal statutes against him while he was incarcerated at Talladega Federal Prison Camp. The named defendants include the United States of America, a federal prosecutor, two federal probation officers, federal correctional officers, Keeton Corrections, Inc. and medical personnel. (Pet. App. at 4). Dr. Carla Thomas is one of the physicians Shotts has sued in this lawsuit.[1]

On August 13, 2002, Dr. Thomas filed a Motion to Dismiss Shotts's Complaint for lack of jurisdiction and failure to state a claim upon which relief can be granted. After entertaining oral argument on Dr. Thomas's Motion to Dismiss and other pending motions, the District Court dismissed Shotts's Complaint with prejudice on September 26, 2002 in a Memorandum Opinion. (*See* Pet. App. at 1).

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[1] Dr. Thomas is a board certified family practitioner who practices in private practice in Anniston, Alabama. At all times relevant to the present litigation, Dr. Thomas also worked as a contract physician for the Talladega Federal Prison Camp in Talladega, Alabama.

In dismissing Shotts's lawsuit against Dr. Thomas, the District Court noted the "convoluted" nature of Shotts's "shotgun complaint" and recognized the incongruity between the factual allegations and the federal statutes asserted in his Complaint. *Id.*

On October 10, 2002, Shotts filed notice that he was appealing the District Court's September 26, 2002 Order. The Court of Appeals for the Eleventh Circuit affirmed the District Court's ruling in its Opinion dated February 28, 2003 and this matter is presently before this Court on Shotts's Petition for a Writ of Certiorari. (*See* Pet. App. at 3).

II. Statement of Facts

On March 7, 2000, Shotts was incarcerated at the Talladega Federal Prison Camp for service of a federal sentence for a felony conviction of witness tampering. At the prison, Shotts's work assignment was with the correctional institute's garage, where he was supervised by Rodney Robinson ("Robinson"). On May 31, 2000, Shotts reported for work and was directed by Robinson to check the mileage on the government vehicles located on the prison grounds. Shotts alleges that, while performing this task, he injured his back. (Pet. at 1). Shotts was diagnosed with bulging and herniated discs.

Dr. Carla Thomas is a licensed physician who worked at the Talladega Prison Camp once a week during the time period relevant to the present litigation. Dr. Thomas was involved in treating Shotts after his back injury in May of 2000. At some point following his injury, Shotts was scheduled to appear before the resentencing commission. Prior to this appearance, Shotts attempted to persuade Dr.

Thomas and other members of the prison medical staff to testify on his behalf in hopes of obtaining a reduced sentence. Shotts issued checks to Dr. Thomas and others on the medical staff requesting that they serve as witnesses at his resentencing.[2] Sometime thereafter, Shotts was accused of witness tampering and placed in the segregated housing unit at the prison. He spent twenty-six days in the segregated housing unit.

Shotts alleges that while he was in segregated housing, Dr. Thomas and others conspired to deprive him of proper medical care. (Pet. at 2-3). Shotts contends he was forced to sleep on the floor and was refused treatment of his herniated discs, all in retaliation for allegedly subpoenaing Dr. Thomas and others.

On or around June 28, 2001, Shotts was transferred from the Talladega Federal Prison Camp to a Community Correctional Center. Shotts completed his sentence and was released from the Community Correctional Center on September 4, 2001.

REASONS FOR DENYING THE WRIT

Petitioner asks this Court to grant Certiorari in this case pursuant to 28 U.S.C. § 1254. Shotts asserts that the issue for this Court's review is the erroneous decisions by the District Court and the Court of Appeals in dismissing

[2] While Dr. Thomas disputes that a subpoena accompanied this check, this factual dispute is not material to this Court's determination of whether to grant the Petition.

his claims based on his failure to overcome the qualified and absolute immunities of some of the named defendants. This is Shotts only grounds for seeking this writ of certiorari. (Pet. at 2).

With regard to Dr. Thomas, this Court should not exercise jurisdiction over this Petition because the stated issue on appeal does not apply to Dr. Thomas. This Court has repeatedly stated that jurisdiction to review judgments of courts of appeals by certiorari was to be exercised sparingly, and only in cases of gravity and general importance, or in order to secure uniformity of decision. *See Magnum Import Co. v. Coty,* 262 U.S. 159 (1923); *Ohio ex rel. Seney v. Swift & Co.*, 260 U.S. 146 (1922); *Hamilton-Brown Shoe Co. v. Wolf Bros. & Co.*, 240 U.S. 251 (1916). This Court should not consider the claims of the Petitioner on jurisdictional grounds. Supreme Court Rule 10 provides:

> A petition of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:
>
> * * *
>
> (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
>
> (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important

> federal question in a way that conflicts with relevant decisions of this Court.

SUP. CT. R. 10.

In *Fields v. United States*, 205 U.S. 292 (1907), this Court, in finding there was no sufficient ground for certiorari, stated:

> However important the case may be to the applicant, the question involved is not one of gravity and general importance. There is no conflict between the decisions of state and Federal courts or between those of Federal courts of different circuits. There is nothing affecting the relations of this nation to foreign nations, and indeed no matter of general interest to the public.

Id. at 296.

In rejecting the Petitioner's claims below and affirming the opinion of the District Court, the Court of Appeals' clear and well-reasoned opinion evidences a correct interpretation of the law and demonstrates why this Petition for Writ of Certiorari should be denied. Petitioner attempted to assert claims in his Petition under 42 U.S.C. § 1983, 42 U.S.C. § 1985, 18 U.S.C. § 1962 (RICO), and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct. 1999 (1971). Petitioner now seeks review of the Court of Appeals' decision to affirm the District Court's dismissal of Petitioner's claims against the certain named defendants on immunity grounds pursuant to a 12(b)(6) motion. Petitioner argues that the Court of Appeals' opinion is contrary to constitutional precedent. (Pet. at 2). The immunity defenses, however, are applicable only to the named defendants who raised them. Dr. Thomas has never raised immunity as a

defense in the course of this litigation, rather the claims were dismissed against Dr. Thomas for failure to state a claim. Shotts devotes all of his Petition to the topic of immunity without setting forth any argument that would explain how Dr. Thomas, a defendant who has not raised an immunity defense, falls under the jurisdiction of this Court. In fact, Shotts has failed to challenge the dismissal of his claims against Dr. Thomas in his Petition. Accordingly, Shotts's Petition should be denied with regard to Dr. Thomas.

The District Court and the Court of Appeals found Petitioner's arguments to be convoluted in its attempts to assert a cause of action against any of the parties in this lawsuit, including Dr. Thomas. (Pet. App. 1-5). As set forth in the District Court's Memorandum Opinion and the Court of Appeals' Opinion, the accusations of Shotts's Complaints were insufficient to establish the essential elements of a claim under any of the various federal statutes or provisions Shotts purported to invoke.[3] As set forth in these opinions, the claims against Dr. Thomas were properly dismissed on grounds other than the immunity issues Shotts raises in his Petition. Dr. Thomas never raised an immunity defense and consequently, the Petition for Writ of Certiorari in this case is due to be denied on jurisdictional grounds because the application comes

[3] The District Court's opinion stated: "Without repeating the points articulated in defendants' motions to dismiss, they are well taken, and for the reasons therein stated and discussed during oral argument, the said motions are due to be granted and will be granted by separate order. A lengthy opinion would add nothing but insult to the alleged injuries sustained by Shotts." (Pet. App. at 2).

within none of the conditions specified for this Court's review of the Court of Appeals' decision.

CONCLUSION

WHEREFORE, because the courts below have properly interpreted the law and this Court's precedent and because there is no jurisdictional basis for Petitioner's claims, this Respondent respectfully requests this Court to deny the Petition for Writ of Certiorari.

Respectfully submitted,

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